

## **ADMINISTRATION**

### **CHAPTER 3    ADMINISTRATION** (Ordinance 89-14 – 7-12-89)

#### **ARTICLE 3-1                      OFFICERS IN GENERAL**

- 3-1-1              Officers
- 3-1-2              Additional Officers
- 3-1-3              Bond
- 3-1-4              Vacancies; Holding More Than One Office
- 3-1-5              Additional Powers and Duties

##### **Section 3-1-1              Officers**

There are hereby created the office positions of city manager, city clerk, chief of police, director of community development, city engineer, city attorney and city magistrate.

##### **Section 3-1-2              Additional Officers**

The council may appoint and remove from time to time such other officers as it may deem necessary and that are not provided for in this code or a state statute.

##### **Section 3-1-3              Bond**

The council may require each officer of the city to give bond for the due discharge of his duties in such sums and with such security as it may direct and approve as determined by resolution. The city shall pay the costs of such bond.

##### **Section 3-1-4              Vacancies; Holding More Than One Office**

Any vacancy that shall occur in any city office shall be filled by appointment by the council, provided that one person may hold more than one office and that at the discretion of the council, the functions of a city officer may be validly performed and discharged by a deputy officer or another city officer, or an otherwise qualified individual not holding office but employed at the pleasure of the council.

##### **Section 3-1-5              Additional Powers and Duties**

In addition to any powers and duties prescribed in this code, each officer shall have such further powers, perform such further duties and hold such other office as may be provided by the council through ordinance, resolution or order.

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### ARTICLE 3-2 OFFICERS

3-2-1	City Manager
3-2-2	City Clerk
3-2-3	Police Chief
3-2-4	City Engineer
3-2-5	City Attorney
3-2-6	City Magistrate
3-2-7	Director of Community Development
3-2-8	Collection Fees (2001-01-01-09-01)

#### Section 3-2-1 City Manager

- A. Office Created. The office of the city manager is hereby created and established. The city manager shall be appointed by the council wholly on the basis of his administrative and executive ability and qualifications and shall hold office for and at the pleasure of the council.
- B. Bond. The city manager shall furnish a corporate surety bond to be approved by the council in such sum as may be determined by the council, and shall be conditioned upon the faithful performance of the duties imposed upon the manager as herein prescribed. Any premium for such bond shall be a proper charge against the city.
- C. Compensation. The city manager shall receive such compensation as the council shall fix from time to time.
- D. Removal Procedure. The city manager may be removed from office by a majority vote of the council; however a manager shall not be removed within ninety days following a city election or the appointment of a city council member.
- E. Powers and Duties. The city manager shall be the chief administrative officer of the city government under the direction and control of the council, except as otherwise provided in this chapter. He shall be responsible to the council for the proper administration of affairs of the city. In addition to his general powers as administrative officer and not as a limitation thereof, he shall have the following additional powers and duties:
  - 1. Appoint and when necessary for the good of the city, suspend or remove all officers and employees of the city not appointed by the council. He may authorize the head of a department or office to appoint, suspend or remove subordinates in such office or department. All appointments and removals shall be based upon merit and upon the qualifications and disqualifications of such employee without regard to any political belief or affiliation. All department heads and officers required by law to be appointed by the council shall be appointed and terminated by the council with consideration of the recommendations of the city manager.

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2. Prepare the budget annually and submit it to the council together with a message describing the important features and be responsible for its administration after adoption. Such budget shall be accompanied by appropriate long range considerations which relate to features of the budget.
3. Prepare and submit to the council at the end of each fiscal year a complete report on the finances and administrative activities of the city during the preceding year.
4. Review the budget at least quarterly to compare actual revenues with actual expenditures with the budget and furnish the council with written reports of such comparison.
5. Keep the council advised of the financial condition and future needs of the city and make such recommendations as he may deem necessary.
6. Recommend to the council a standard schedule of pay for each appointive office and position in the city service. Authorize the payment of overtime pay for such employees as may work in excess of a normal work period. Such rates of pay and periods of work shall be in conformance with wages and salaries enacted by the council.
7. Recommend to the council from time to time adoption of such measures which he may deem necessary or expedient for the health, safety or welfare of the community or for the improvement of administrative services.
8. Consolidate or combine offices, positions, departments or units under his jurisdiction with the approval of the council. The city manager may be the head of one or more departments.
9. Attend all meetings of the council unless excused there from and may take part in the discussion of all matters coming before the council. He shall receive notice of all regular and special meetings of the council and attend or designate a subordinate to attend board, commission and committee meetings as necessary.
10. Purchase or supervise the purchase of all materials, supplies and equipment for which funds are provided in the budget; let contracts necessary for operation or maintenance of city services. Receive sealed bids for purchases or contracts and present them to the council for approval, and advise the council on the advantages or disadvantages of contract and bid proposals. The city manager may issue such rules governing purchasing procedures within the administrative organization provided that they are consistent with the provisions of the code and state law.

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11. In case of city disaster or other circumstances creating a public emergency, the city manager may award contracts and make purchases for the purpose of meeting said emergency; but he shall file promptly with the council a certificate showing such emergency and the necessity for such action, together with an itemized account of all expenditures.
12. See that all laws and ordinances are duly enforced.
13. Investigate the affairs of the city and any department or division thereof. Investigate all complaints in relation to matters concerning the administration of the city government and in regard to service maintained by the public utilities in the city, and see that all franchises, permits and privileges granted by the city are faithfully observed.
14. Perform such other duties as may be required by the council which are not inconsistent with state law or city ordinances.
15. The city manager shall receive inquiries from the public by letter, phone, electronic means or in person and shall furnish information or direct the inquiry to the proper source within city government for answer.

### **Section 3-2-2            City Clerk**

- A. Records. The city clerk shall keep a true and correct record of all business transacted by the council and all other records that either pertain to the business of the city or that the council directs. The city clerk shall number, plainly label and file separately in a suitable cabinet all resolutions, ordinances, notices, deeds, surveys, leases, paid and unpaid vouchers, inventories, letters, orders and other documents of whatever nature.
- B. Public Inspection of Records. The city clerk shall keep convenient for public inspection all public records and public documents under his control, as provided by state statute. Photocopies of documents may be furnished using a fee schedule established by the city council.
- C. Minutes. The city clerk shall prepare or cause to be prepared all minutes of council, commission, committee and board proceedings and ensure their correctness and accuracy.
- D. Ordinances, Resolutions, Budgets and Notices. The city clerk shall process, record, file, publish and, if required by state statute, post all ordinances, resolutions, budgets and notices that may be passed by the council.
- E. Election Officer. The city clerk shall be the city election officer and perform those duties required by state statute.

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- F. Licenses. The city clerk shall be the inspector of licenses and issue or cause to be issued all licenses that may be prescribed by state statute or this code.
- G. Administration. The city clerk shall perform all administrative responsibilities and duties that are conferred upon him by the council in addition to those specified in this code.
- H. The city clerk shall be appointed and directed by the city manager.

### **Section 3-2-3            Police Chief**

- A. The chief of police shall perform duties as may be required of him by law, the city manager and as the council may deem necessary.
- B. It is the duty of the chief of police, to:
  - 1. Enforce this code and the statutes of the State of Arizona within jurisdictional limits as conferred by law and to arrest and charge the violators thereof.
  - 2. Enforce the traffic regulations of the city as specified in Chapter 11 of this code and enforce the traffic laws of the state within the limits of the city.
  - 3. Perform such additional duties as may be required by the city manager.
  - 4. Authorize any peace officer of the city to stop and detain a person as is reasonably necessary to investigate an actual or suspected violation of any provision of this code, and to serve a copy of the traffic complaint for any alleged civil or criminal violation of this code or state law.
  - 5. Render such account of the police department, its duties and receipts as may be required by the council, and keep records of the office open to inspection by the council at any time.

### **Section 3-2-4            City Engineer**

- A. The engineer shall have cognizance over and be responsible for all city streets and civil engineering and shall perform such duties as may be required of him by law and such other duties as the council and city manager may deem necessary.
- B. The city engineer shall be appointed by, report to and serve at the pleasure of the city manager.
- C. The city engineer shall head the engineering department of the city and shall be responsible for the following under the direction of the city manager:
  - 1. Operation of the office of wastewater management.

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2. General city mapping, including utility lines, streets and roads, bridges, washes and other natural and man-made features.
3. Planning and coordination of public works projects.
4. Issuance and inspection for permits to work in city right-of-way.
5. Management and supervision of road maintenance and rehabilitation program, including contract administration.
6. Development of capital improvement plans for a street and road network and a drainage master plan and improvements.
7. Responding to citizen complaints regarding roads, drainage problems, etc.
8. Planning and implementation of property address system.
9. Review of development proposals for compliance with city engineering standards.
10. Development and updating of standard public works specifications and details for the city.
11. Coordination of flood management studies and drainage improvement projects.
12. Other duties and responsibilities as may be assigned by the city council and city manager.

### **Section 3-2-5 City Attorney**

The city attorney shall act as the legal counselor and advisor to the council and city officers and, shall give his opinion in writing when requested. The city attorney shall:

- A. Draft all deeds, contracts, conveyances, ordinances, resolutions and other legal instruments when required by the council.
- B. Approve as to form, in writing, all drafts of contracts and all official or other bonds before final approval or acceptance thereof by the council.
- C. Return, within ten days, all ordinances and resolutions submitted to him for consideration by the council, with his approval or disapproval as to form noted thereon, together with his reasons therefore.

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- D. Prosecute and defend all suits, actions or causes where the city is a party, and shall report to the council, when required, the condition of any suit or action to which the city is a party.

### **Section 3-2-6            City Magistrate**

- A. The city magistrate shall be the presiding officer of the magistrate's court and shall be selected by the council and shall perform those functions necessary to the maintenance of the magistrate's court as provided by state statute.
- B. Each magistrate shall exercise powers, duties and responsibilities as provided by the constitution and laws of the state, this code and other city ordinances.
- C. The powers and duties of the presiding magistrate shall include, but not be limited to the following:
  - 1. Scheduling assignments of all magistrates.
  - 2. Submitting all reports required by the constitution and the laws of the state, this code and ordinances of the city.
  - 3. Reporting the activities of the magistrate court as reasonably required by the council.
  - 4. The keeping of a docket in which shall be entered each action and the proceedings of the court therein.
  - 5. The responsibility for fixing and receiving all bonds and bails and receiving all fines, penalties, fees and other monies as provided by law.
  - 6. The payment of all fines, penalties, fees and other monies collected by the court to the city treasury.
  - 7. Procedures established in A.R.S. § 22-421.

### **Section 3-2-7            Director of Community Development**

- A. The director of community development is appointed by, reports to and serves at the pleasure of the city manager.
- B. The director of community development shall be the head of the department of community development, in accordance with A.R.S. § 9-461.03, as may be amended. His duties involving planning, zoning and building, as zoning administrator pursuant to A.R.S. § 9-462.05 as may be amended, shall include:

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1. Reviewing building plans, comparing plans with ordinances, codes, specifications and regulations, and directing and enforcing compliance.
2. Reviewing subdivision and master plans; zoning, rezoning and variance applications; comparing these with the City of Sedona General Plan, with zoning ordinances, codes and regulations and directing and enforcing compliance.
3. Preparing the agenda and presentations for the planning and zoning commission and, as an expert advisor, attending all commission and council meetings.
4. Directing office analyses of building and grading applications, field inspections, issuing building and grading permits; managing the building safety function.
5. Establishing and directing departmental policies, procedures and operations and informing the city manager of all departmental activities through written and oral reports.
6. Conferring with federal, state, county and special district agencies on technical planning, zoning and building issues, in accordance with A.R.S. § 9-461.12 and other statutes and informing the commission and council through written and oral reports.
7. Preparing, administering and performing quality control of the annual departmental budget.
8. Continuously evaluating land uses, land use balance criteria, zoning criteria, building practices and procedures, and recommending to the commission and council modification of ordinances, codes and regulations essential for community development.
9. Producing, administering and maintaining the City of Sedona Community Plan in accordance with A.R.S. § 9-461.05 et seq.
10. Monitoring and negotiating with Coconino and Yavapai County planning, zoning and building department counterparts on issues in extraterritorial areas, in accordance with A.R.S. § 9-461.11.
11. Performing related planning, zoning, and building duties as directed by the City Manager and the Council.



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### **Section 3-2-8                      Collection Fees (2001-01 – 01-09-2001)**

- A.     A defendant who defaults in his or her obligation for the payment of monies owed or due to the City Magistrate, including but not limited to restitution, fines, sanctions, surcharges, assessments, penalties, bonds, costs and/or fees, is liable for any and all fees and charges assessed by a collection agency that is licensed pursuant to Title 32, Chapter 9, Article 2, Arizona revised Statutes, and that is engaged by the City Magistrate to collect and enforce such payment. The collection fees and charges assessed by the collection agency shall be added to the sum or sums due from the chargeable against the defendant.
  
- B.     A defendant who defaults in his or her obligation for the payment of monies owed or due to the City Magistrate, including but not limited to restitution, fines, sanctions, surcharges, assessments, penalties, bonds, costs and/or fees, is liable for any and all fees and charges assessed by a duly licensed attorney, and who is engaged by the City Magistrate to collect and enforce such payment. The collection fees and charges assessed by the attorney shall be added to the sum or sums due from the chargeable against the defendant.

### **ARTICLE 3-3                      PERSONNEL SYSTEM**

- 3-3-1                      Creation and Scope
- 3-3-2                      Rules and Regulations
- 3-3-3                      Political Contributions

#### **Section 3-3-1                      Creation and Scope**

There is hereby adopted a merit system for the employees of the city, the provisions of which shall apply to all employees of the city excluding elected officials, persons engaged under contract to supply expert, professional or technical services, temporary employees and volunteer personnel who receive no regular compensation from the city.

#### **Section 3-3-2                      Rules and Regulations**

The council may adopt by ordinance rules and regulations to effectuate this article, which may be modified or changed from time to time, but such rules and regulations shall follow the generally accepted principles of good personnel administration.

#### **Section 3-3-3                      Political Contributions**

No public officer, official or employee of the city, as defined by Section 3-6-1, shall use any influence or pressure upon any other public officer or city employee to obtain any assessment or contribution of money or time, either direct or indirect, for any political campaign, personal gain or economic benefit.

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### ARTICLE 3 – 4

### PURCHASING (Revised O2005-11, O2005-15)

3-4-1	In General
3-4-2	Exceptions to Section 3-4-1
3-4-3	Bidding
3-4-4	Determination of Lowest Responsible Bidder
3-4-5	Performance Bond
3-4-6	Emergency Purchases
3-4-7	Professional Services
3-4-8	Surplus Supplies and Equipment
3-4-9	Signatures on Checks

#### Section 3-4-1 In General

The City Manager, or his designee(s), shall be the purchasing agent for the City. No purchases or contracts for services or materials of any kind or description, for which payment is to be made from funds of the City, shall be made by the purchasing agent, or any officer, employee or agent of the City, except in the manner set forth in this article.

- A. Under \$5,000. Whenever any contemplated purchase or contract for services, supplies or materials is for the sum of less than \$5,000, the department head or designee may order the item as needed without bidding. If the price of supplies or materials made with or containing recycled products is within five percent (5%) of the price of materials not made with or containing recycled products, the department head or designee may give preference to and purchase the supplies or materials made with or containing recycled products; so long as quality or performance are not compromised by such purchasing preference.
- B. \$5,001 to \$10,000 inclusive. Whenever any contemplated purchase or contract for services, supplies or materials is for the sum of at least \$5,001 but not more than \$10,000, the department head or designee shall let contracts by obtaining written quotations. The department head or designee may then award the purchase or contract of service to the lowest responsible supplier. Dividing invoices on a single purchase so each invoice is less than \$10,000 is prohibited. Notice of the Section 3 – 4 – 4, subsection G, purchase preference for supplies or materials made with or containing recycled products, shall be placed in or otherwise made a part of all City solicitations for informal bids or written price quotations.
- C. \$10,001 to \$25,000. Whenever any contemplated purchase or contract for services, supplies or materials is for the sum of \$10,001 to \$25,000, the department head or designee shall issue a written Request for Bid to at least three vendors, if possible. The notice herein required shall include a general description of the articles to be purchased or services to be performed and the time and place for opening bids. Notice of the Section 3 – 4 – 4, subsection G, bid preference for supplies or materials made with or containing recycled products, shall be placed in or otherwise made a part of

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all City bid notices and solicitations. If only one responsive quotation is received, the buyer may initiate a second solicitation. Once all bids are received, the City Manager shall make the final approval. If he/she determines that the price is fair and reasonable, the purchase may be made from a single responding vendor. City manager approval is required on ALL purchases or contracts for services, supplies or materials costing \$10,001 to \$25,000. The city manager may authorize change orders to contracts for purchases of services, supplies or materials approved by the Council for up to an accumulative amount of 10% of the original contracted sum or \$25,000, whichever is greater.

- D. Products, Construction Projects and General Services over \$25,000. No contract of \$25,000 or more for budgeted products, construction projects and general services shall be let, except by the City Council. Whenever any contemplated purchase or contract is for the sum of \$25,000 or more, the City Manager shall present the bids to the council for approval and advise the council of the advantages or disadvantages of the contract and bid proposal.
- E. \$0 to \$50,000 for Street and Drainage Maintenance, Repair and Improvement. Notwithstanding subsections B, C and D of this section, whenever any contemplated purchase or contract for services of work to be done for the purpose of street and drainage maintenance, repair and improvement is for a sum of up to \$50,000, the City shall obtain a written bid for the work to be done, and the City Manager may then award a contract, provided that:
1. The project does not require plans and specifications to be prepared by a civil engineer registered in the State of Arizona pursuant to the requirements of A.R.S., Title 32 and title 34.
  2. The cumulative mileage of work to be done during one fiscal year does not exceed 1.0 mile (24 foot width) for paving projects, or 4.0 miles (24 foot width) for chip seal projects.
  3. The project requirements shall not be artificially divided or fragmented so as to circumvent the limitations or requirements of this article.

### **Section 3-4-2 Exceptions to Section 3-4-1**

- A. Exclusive Service. In the event that there is only one firm, company or individual capable of providing a particular service or commodity, and such services or commodities cannot be secured from other persons or companies, such services or commodities may be secured without bidding. Departments must have documented approval from the City Manager prior to purchase.

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- B. Used Equipment. Upon recommendation of the department head, the City Manager may waive the bid procedures with respect to the purchase of used equipment.
- C. Cooperative Purchasing. In the event of a purchase made by, through or with the U.S. Government, State of Arizona or its political subdivisions, purchase or award of such contracts for services or materials may be made without the bidding process in Section 3-4-1.

Such purchases would require the following approval:

- 1. Items under \$25,000 inclusive must be approved by the City Manager.
  - 2. Items \$25,000 or over must be approved by the City Council.
  - 3. Contract number and backup be provided.
- D. Professional Services as described in section 3-4-7
- E. Notwithstanding any other provision of this article, in the event any purchase or contract falls within the definitions for limitations of A.R.S. § 34 – 201 et seq., as amended, the provisions, requirements and specifications of the relevant portions of the Arizona Revised Statutes shall supersede this article and control any such bidding procedures.
- F. Procurement of design and construction services in accordance with the provisions of A.R.S. 34-602, as they currently exist or as they may be amended in the future, is permitted. The use of any method of construction procurement, except the traditional “Design-Bid-Build” method, shall be initiated only after approval by the City Council authorizing the use of such a procurement method for a specific project.

### **Section 3-4-3 Bidding**

The department and all parties interested in contracting with the City shall follow the procedure set forth in this section in relation to all bids required under Section 3 – 4 – 1, subsection C.

- A. All notices and solicitation of bids shall state the date, time and place for bid opening.
- B. All bids shall be submitted sealed to the soliciting department and shall be identified as bids on the front of the envelope.
- C. All bids shall be opened on the date, time and place stated in the request for bid, unless such bids are required to be opened at a City Council meeting in accordance with A.R.S. § 34 – 201.

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- D. The City shall have the authority to reject any and all bids and parts of all bids and re-advertise or re-solicit bids.

### **Section 3-4-4 Determination of Lowest Responsible Bidder**

Unless the Council, City Manager or department head or designee exercise the right of rejection as provided by Section 3 – 4 – 3, the purchase or contract shall be made with the lowest responsible bidder for the entire purchase or contract or for any part thereof. In determining the lowest responsible bidder, the following shall be considered:

- A. The ability, capacity and skill of the bidder to perform the contract or provide the service required.
- B. Whether the bidder can perform the contract or provide the services promptly or within the specified time, without delay or interference.
- C. The quality of performance of previous contracts.
- D. The previous and existing compliance by the bidder with laws and ordinances of the City.
- E. The financial resources and ability of the bidder to perform the contract.
- F. The quality, availability and adaptability of the supplies, services or materials.
- G. If the price of supplies or materials made with or containing recycled products is within five percent of the price of materials not made with or containing recycled products, the department head or designee may give preference to and purchase the supplies or materials made with or containing recycled products so long as quality or performance are not compromised by such purchasing preference.

### **Section 3-4-5 Performance Bond**

A performance bond, in cash or otherwise, for such amount may be deemed sufficient to secure the execution of the contract in the best interest of the City

### **Section 3-4-6 Emergency Purchases**

In case of an emergency as defined in Section 2-2-4, which requires immediate purchase of supplies or services and when time is of the essence, the Mayor shall be empowered to purchase or secure services or materials without complying with the procedures of this article. A full report in writing of the circumstances of any emergency purchase shall be filed by the purchasing agent with the City Council at its next meeting.

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### **Section 3-4-7 Professional Services**

Unless required by the City Council, bidding and other requirements of this article shall not apply to professional services. Such services shall include, but not be limited to, the following: physicians, attorneys, engineers, architects, similar professions.

### **Section 3-4-8 Surplus Supplies and Equipment**

All departments and offices shall submit to the Financial Services Department at such time, and in such form as that office shall prescribe, reports showing all supplies and equipment which are no longer used or have become obsolete or worn out. Each department shall have the authority to sell all supplies and equipment which cannot be used or which have become unsuitable for City use, or to exchange the same for, or trade in the same for new supplies and equipment, in accordance with applicable state statutes.

### **Section 3-4-9 Signatures on Checks**

All checks for expenditures of City monies shall bear two signatures of either the City Manager, City Clerk, Mayor, Vice Mayor, or designee.

## **ARTICLE 3-5**

## **CIVIL PREPAREDNESS AND DISASTER**

3-5-1	Purposes
3-5-2	Definitions
3-5-3	Office of Civil Preparedness
3-5-4	Powers and Duties
3-5-5	Mutual Aid
3-5-6	Immunity of City and Representatives Thereof
3-5-7	Enforcement of Orders, Rules and Regulations
3-5-8	Violations

### **Section 3-5-1 Purposes**

The purposes of this article are to:

- A. Reduce vulnerability of people and the community to damage, injury and loss of life and property resulting from natural or man-made catastrophes, riots or hostile military or paramilitary action.
- B. Prepare for prompt and efficient rescue, care and treatment of persons victimized or threatened by disaster.
- C. Provide a setting conducive to the rapid and orderly start of restoration and rehabilitation of persons and property affected by disasters.

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- D. Clarify and strengthen the roles of the mayor, council, manager and city agencies in prevention of, preparation for and response to and recovery from disasters.
- E. Authorize and provide for cooperation in disaster prevention, preparedness, response and recovery.
- F. Authorize and provide for coordination of activities relating to disaster prevention, preparedness, response and recovery by agencies and officers of this city, agencies of the private sector and similar activities in which the federal government, the state and its political subdivisions may participate.
- G. Provide a disaster management system embodying all aspects of predisaster preparedness and post-disaster response.

### **Section 3-5-2            Definitions**

In this article unless the context otherwise requires:

- A. "Civil preparedness" means the organization, administration, trained manpower, facilities, equipment, material, supplies, programs, emergency plans, ability to execute emergency plans and all other measures necessary and incidental thereto relating to disaster prevention preparedness response and recovery by all governmental and private sector agencies to protect or save health, life or property.
- B. "Director" means the Director of Civil Preparedness.
- C. "Disaster" means the occurrence or imminent threat of widespread or severe damage, injury or loss of life or property or extreme peril to the safety of persons or property, resulting from any natural or man-made causes, including but not limited to fire, flood, earthquake, wind, storm, blight, drought, famine, infestation, air contamination, epidemic, explosion, riot or other acts of civil disobedience which endanger life or property, or hostile military or paramilitary action.
- D. "Emergency" means the existence of a disaster within the city limits or abutting or immediately adjacent to the city requiring immediate action by the emergency forces of the city.
- E. "Emergency forces" means all city governmental and private sector agencies, volunteers, facilities, equipment, trained manpower and other resources required to perform civil preparedness functions.
- F. "Local emergency" means the existence of a disaster within the city limits or abutting or immediately adjacent to the city, and the situation is or is likely to be beyond the capability and resources of the city as determined by the mayor and which requires the combined efforts of other political subdivisions.

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- G. "Regulations" means the orders, rules and emergency procedures deemed essential for civil preparedness.
- H. "State of emergency" means the duly proclaimed existence of a disaster within the state except a disaster resulting in a state of war emergency which is or is likely to be beyond the capabilities and resources of the city and requires the combined efforts of the state and its political subdivision.
- I. "State of war emergency" means the situation which exists immediately whenever this nation is attacked or upon receipt by this state of a warning from the federal government indicating that such an attack is imminent.

### **Section 3-5-3            Office of Civil Preparedness**

The city manager is hereby authorized and directed to create a civil preparedness organization. The director of civil preparedness shall be appointed by the mayor and the council and shall be responsible to the mayor.

### **Section 3-5-4            Powers and Duties**

- A. The council:
  - 1. Shall have the power to make, amend and rescind regulations, not inconsistent with regulations promulgated by the governor, necessary for civil preparedness, which regulations shall have the full effect of this article when a copy is filed in the office of the clerk. Existing ordinances and regulations, or ordinances and regulations issued under authority of A.R.S. Title 26, Chapter 2, in conflict therewith, are suspended during the time and to the extent that they are in conflict.
  - 2. May appropriate and expend funds, make contracts, obtain and distribute equipment, materials and supplies for civil preparedness purposes.
  - 3. In the absence of specific authority in state emergency plans and procedures, the council shall take emergency measures as deemed necessary to carry out the provisions of A.R.S. Title 26, Chapter 2.
  - 4. In a state of war emergency the council may waive procedures and formalities required by law pertaining to the performance of public work, entering into contracts, incurring obligations, employing permanent and temporary workers, utilizing volunteer workers, renting equipment, purchasing and distributing supplies, materials and facilities and appropriating and expending public funds when the council determines and



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declares that strict compliance with such procedures and formalities may prevent, hinder or delay mitigation of the effects of the state of war emergency. The city shall be exempt during such emergency from budget limitations prescribed by Article IX, Section 20 of the State Constitution.

**B. The mayor:**

1. In addition to the powers granted by other provisions of the law or city ordinance, the mayor may, by proclamation, declare an emergency or a local emergency to exist. The proclamation may be rescinded by a motion by a majority of the council after twenty-four hours.
2. During an emergency or local emergency, the mayor shall govern by proclamation and shall have the authority to impose all necessary regulations to preserve the peace and order of the city including, but not limited to:
  - a. Imposition of curfews in all or in a portion of the city;
  - b. Ordering the closing of any business;
  - c. Closing to public access any public building, street or other public place;
  - d. Calling upon regular or auxiliary law enforcement agencies and organizations within or without the city for assistance.

**C. The director:**

1. The director is responsible in non-emergency periods to act on behalf of the mayor and council to develop a minimum level of readiness for the city's civil preparedness and for coordinated operations in emergency situations.
2. During emergencies, the director shall act as the principal advisor or aide to the mayor on emergency control. The major responsibility is to coordinate among emergency forces and with higher and adjacent governments, by directing that the emergency operation center function effectively. He shall advise and assist the mayor in the execution of existing plans and procedures required by the emergency.
3. The director shall prepare a comprehensive civil preparedness plan which shall be adopted and maintained by resolution of the council upon the recommendations of the director. In the preparation of this plan as it pertains to city organization, it is the intent that the services, equipment, facilities and personnel of all existing departments and agencies be used to the fullest extent.

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4. The civil preparedness plan shall be considered supplementary to this article and have the effect of law whenever emergencies, as defined in this article, have been proclaimed by the mayor.

### **Section 3-5-5 Mutual Aid**

In periods of local emergency as declared pursuant to this article, the city is hereby granted full power to provide mutual aid to any affected area in accordance with local ordinances, resolutions, emergency plans or agreements therefore. The city may request from state agencies mutual aid including personnel, equipment and other available resources to assist the city during the local emergency in accordance with emergency plans or at the direction of the governor.

### **Section 3-5-6 Immunity of City and Representatives Thereof**

- A. The city shall not be liable for any claim based upon the exercise or performance, or the failure to exercise or perform a discretionary function or duty on the part of the city or any officer or employee of the city, except willful misconduct, gross negligence or bad faith of any such officer or employee, in carrying out the provisions of A.R.S. Title 26, Chapter 2.
- B. The immunities from liability, exemptions from laws, ordinances and rules, all pensions, relief, disability workmen's compensation and other benefits which apply to the activity of officers, agents or employees of the city when performing their respective functions within the limits of the city shall apply to them to the same degree and extent while engaged in the performance of any of their functions and duties extraterritorially under the provisions of this article, excepting willful misconduct, gross negligence or bad faith.
- C. Volunteers duly enrolled and registered for services in a local emergency, a state of emergency or a state of war emergency in carrying out, complying with or attempting to comply with, any regulations issued pursuant to A.R.S. Title 26, Chapter 2 or any local ordinance, or performing any of their authorized functions or duties, or training for the performance of their authorized functions or duties, shall have the same degree of responsibility for their actions and enjoy immunities as officers and employees of the state and its political subdivisions performing similar work.

### **Section 3-5-7 Enforcement of Orders, Rules and Regulations**

The Sedona Police Department shall enforce regulations issued pursuant to this article.

### **Section 3-5-8 Violations**

It is unlawful for any person to violate any provision of this article or to refuse or willfully neglect to obey any lawful regulation or order issued as provided in this article. This

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provision, however, does not apply to the refusal of any private organization or members thereof to participate in an emergency, local emergency or state of emergency as defined by this article.

### **ARTICLE 3-6            CONFLICT OF INTEREST**

- 3-6-1            Definitions
- 3-6-2            Policy – Substantial Interest
- 3-6-3            Policy – Remote Interest
- 3-6-4            Prohibited Acts

#### **Section 3-6-1            Definitions**

In this article unless the context otherwise requires:

- A.        "Employee" means all persons who are not public officers who are employed on a full, part-time or contract basis by the city or any of its departments, commissions, agencies, bodies or boards for remuneration.
- B.        "Public officer" means all elected and appointed officers of the city, all members of boards, commissions and committees established by ordinance, code, resolution or motion of the council.

#### **Section 3-6-2            Policy – Substantial Interest**

Public officers and employees who have a substantial interest in any contract, sale, purchase or service for the city, as described by A.R.S. § 38-501, as may be amended, shall comply with A.R.S. § 38-503 through 38-509.

#### **Section 3-6-3            Policy – Remote Interest**

The definition of remote interest in A.R.S. § 38-502 (10) shall pertain to public officers and employees in matters involving contracts, sales, purchases or services for the city.

#### **Section 3-6-4            Prohibited Acts**

Public officers and employees shall comply with such restrictions as are delineated by A.R.S. § 38-504 as may be amended.

### **ARTICLE 3-7            CLAIMS AND DEMANDS AGAINST THE CITY (Ordinance 99-04)**

- 3-7-1            In General
- 3-7-2            Claim Filing Procedure
- 3-7-3            Alternative Dispute Resolution
- 3-7-4            Authority of the City Manager to Settle Claims

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### **Section 3-7-1            In General**

This article is intended to set forth the process and settlement authority of designated city representatives in settlement of any monetary claims or disputes brought against the city. The provisions of this article incorporate and supercede the provisions of Ordinances 95-20 and 97-05.

### **Section 3-7-2            Claim Filing Procedures**

- A.     A person or legal entity that believes they have a claim against the city shall file, in writing, a statement setting forth the allegations against the city within six months after the cause of action accrues. The claim shall contain facts and any documents supporting those facts, sufficient to enable the city's representatives to understand the basis upon which liability is alleged. The claim shall also set forth a specific dollar amount which is being sought in settlement of the claim. The claim shall clearly indicate the address and phone number of the claimant or any legal representative of the claimant. Failure to comply with these requirements shall be evidence of an insufficient claim, thereby not entitling the proposed claimant to any legal relief.
- B.     Upon receipt of the written claim, the city attorney will determine if the claim will be submitted to the mediation procedure set forth in Section 3-7-3, or if this alternative dispute resolution requirement is waived. If the alternative dispute resolution procedure is waived, the city attorney will determine if the claim shall be submitted to the city's insurance carrier or if the claim will be handled internally. Notice shall be sent to the claimant if the alternative dispute resolution requirement is imposed.

### **Section 3-7-3            Alternative Dispute Resolution**

- A.     If, as set forth in Section 3-7-2, a determination is made that the process of alternative dispute resolution should be employed for a particular claim, the city attorney shall acknowledge, in writing to the claimant, receipt of the claim and give notice that the alternative dispute resolution procedures must be complied with. The city attorney shall then refer the claim to either the City of Sedona Volunteer Mediation Service, a private mediation service or the State of Arizona Attorney General's Mediation Office. The city attorney may also stipulate with the claimant to use any other alternative dispute resolution mechanism.
- B.     The mediation service, to which the claim is referred, shall set a mediation meeting at a time convenient to the parties, but no later than sixty days of the receipt of referral from the city. Written notice of the mediation hearing date shall be provided to both parties and to the claimant by first class mail.
- C.     The parties shall meet at the appointed time as scheduled. The city shall be represented by a person with knowledge and understanding concerning the claim.

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- D. Any agreement developed during the mediation shall be submitted to the city manager who may, in his discretion, consummate a final settlement of the claim if it falls within the parameters of his settlement authority as set forth in Section 3-7-4, or if not, the proposed settlement agreement shall be submitted to the city council for approval.
- E. Upon agreement of the parties, mediation may be continued for more than one session if the need exists.
- F. The mediator shall issue a written final decision or notice of disposition at the conclusion of the mediation, including, in the event the parties do not reach agreement in resolving the claim, notice that the claim is unresolved and is, therefore, presented to the city for action pursuant to A.R.S. § 12-821.01 (A) and (E). The time frame set out in A.R.S. § 12-821.01 for giving notice of a potential claim and initiating suit shall run from the date a final decision or notice of disposition is issued at the conclusion of mediation. In the event the parties are not able to agree to a resolution of the dispute during mediation the claimant may proceed as provided for in A.R.S. § 12-821.01.

### **Section 3-7-4                      Authority of the City Manager to Settle Claims**

- A. The city manager is authorized to negotiate and settle claims and disputes brought against the city, its officers, appointees and employees, subject to the following conditions:
  - 1. The city manager or the city manager's designated representative has made a thorough investigation regarding questions of liability and damages and has determined a reasonable dollar value of the claim.
  - 2. The claim and any proposed settlement has been reviewed and approved by the city attorney.
  - 3. The settlement is conditioned upon an appropriate written release by the claimant in favor of the city, its officers, appointees and employees.
- B. The settlement authority of the city manager is limited in the following respects:
  - 1. For claims which have been submitted to the city's insurance carrier, the city manager is authorized to pay any deductible assessed by the insurance carrier, contingent upon the review and approval of the city attorney.
  - 2. The city manager is authorized to settle any claims not to exceed \$10,000 for settlement of claims or disputes made in connection with easement and property acquisitions or condemnation actions. Such settlements shall be reviewed and approved by the city engineer.

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3. For any other claims presented to the city, including but not limited to claims for bodily injury, property damage or claims in settlement of personnel actions, the city manager shall have authority to settle such claims for an amount not to exceed \$5,000.00.
  4. The city manager or his designee may process workers' compensation claims in accordance with the Arizona worker's compensation law, A.R.S,§ 23-901 et. seq., and the provisions of the city personnel manual.
- C. All other claims, which cannot be resolved within the parameters set forth above, will be submitted to the city council for review and approval or denial.
- D. The city manager will submit, to the city council, a quarterly report of all claims settled pursuant to subsection B of this section.